MONTANA LEGISLATIVE HISTORY

Chapter 135 1975

Bill H 241 S _____ Original bill & history ___C

H. Committee on Public Health, Welfare

Hearing Date(s)		
2-4	___C	
_____	___C	
_____	___C	
_____	___C	
Date Out 2-4	___C	

S. Committee on State Administration re-referred to: Agriculture

Hearing Date(s)		
2-11	___C	
3-5	___C	
_____	___C	
DATE OUT 3-5	___C	

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

LC 0647

Hayne Kropp BILL NO. 261

INTRODUCED BY Mark Thane Johnston, Bertelsen
Lester Murphy Manuel Underdal Jourdonnais

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE PRACTICE OF VETERINARY TECHNOLOGY; TO INCREASE THE NUMBER OF MEMBERS ON THE BOARD OF VETERINARIANS FROM FIVE (5) TO SIX (6) BY AMENDING SECTIONS 82A-1602 AND 66-2202, R.C.M. 1947; TO PROVIDE FOR CONTINUING EDUCATION AND INCREASE THE LICENSE FEE BY AMENDING SECTION 66-2207, R.C.M. 1947; AND TO CHANGE THE DEFINITION OF VETERINARY MEDICINE BY AMENDING SECTIONS 66-2209 AND 66-2211, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. There is a new R.C.M. section that reads as follows:

Veterinary technicians -- definitions -- examinations. (1) The board of veterinarians may also issue to qualified applicants licenses for the practice of veterinary technology, to be known as veterinary technicians.

(2) As used in this act:

(a) "Veterinary technician" means a person determined by the board to be qualified by education and training to provide limited veterinary services under the direct supervision of a licensed veterinarian who shall be responsible for the performance of that technician; provided, however, that nothing in this act permits the board or any licensed veterinarian to delegate any of the following duties or functions: (i) diagnosis; (ii) prognosis; (iii) prescription; or (iv) surgery.

(b) "Direct supervision" means an order by the supervising licensed veterinarian to the veterinary technician, with notice to the client, to perform a specific function for that client within the veterinarian's routine practice, with a follow-up by the veterinarian to evaluate and determine the quality and effectiveness of the function performed and with all billing for such services to be made by the veterinarian. In practice in the field, as distinguished from practice in an office, hosiptal, or clinic, the veterinary technician must be accompanied by the supervising veterinarian.

(3) Each candidate for examination as a veterinary technician shall file in his full name an application for examination with the board at least thirty (30) days before the date set by the board for the commencement of the examination and at the time of making the application shall pay the board a fee of twenty-five dollars ($25). The applicant shall furnish satisfactory proof that he is of good moral character and has earned a diploma or certificate from a school of veterinary technology offering a course of study recognized and approved by the board of veterinarians,

as well as such other information as may be required by the board.

(4) The board shall adopt uniform rules within the limitations of this act, governing the matter of examinations for license to practice veterinary technology in the state of Montana, which examinations shall be open to any applicant meeting the requirements of this act, and shall also provide in such rules for giving reasonable notice of the time and place where examinations shall be held.

(5) A person who can produce satisfactory evidence that he has been employed as a veterinary technician in the office of a regularly licensed veterinarian in the state of Montana for two (2) or more years prior to the passage of this act, may, upon payment of a fee of twenty-five dollars ($25), be granted a certificate to practice by the board of veterinarians; provided that if the board in its discretion finds that animal health and the public interest so require, the board may require the applicant to pass a practical examination in veterinary technology. A certificate must be secured before such person may continue practice as a veterinary technician.

(6) Each applicant who passes the examination prescribed by the board shall be granted a license as a veterinary technician and shall be registered as such in a

record kept by the board, and shall receive a certificate in a form to be prescribed by the board.

(7) A licensed veterinary technician may practice in the office of and under the direct supervision of a legally licensed and actively practicing veterinarian or in a department of state government in which a legally licensed veterinarian is present to exercise direct supervision.

(8) Each licensed veterinary technician shall annually, on or before July 1, procure from the board a certificate of annual registration. The fee for annual registration shall be fixed by the board, not exceeding the sum of ten dollars ($10). Failure of a licensee to procure a certificate of registration on or before July 1 shall constitute a forfeiture of the license.

(9) Each licensed veterinary technician shall keep the board informed of his address, the name and address of the licensed veterinarian or of the state department which is his employer, and such other information as the board may by rule require.

Section 2. There is a new R.C.M. section that reads as follows:

Denial, suspension and revocation of licenses or certificates. The board may deny or suspend or revoke any license or certificate of registration upon the grounds that the applicant or veterinary technician is guilty of:

(1) soliciting patients for any practitioner of the healing arts;

(2) soliciting or receiving any form of compensation from any person other than his registered employer for performing as a veterinary technician;

(3) willfully or negligently divulging a professional confidence or discussing a veterinarian's diagnosis, or treatment, without the express permission of the veterinarian;

(4) any offense punishable by incarceration in a state penitentiary or federal prison. A copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence, provided that at the conclusion of state supervision imposed as a consequence of such conviction the board shall not consider the conviction upon reapplication for a license or certificate;

(5) the habitual or excessive use of intoxicants or drugs;

(6) fraud or misrepresentation in applying for or procuring a certificate of qualification to perform as a veterinary technician, or in applying for or procuring an annual registration;

(7) impersonating another person registered as a veterinary technician or allowing any person to use his

certificate of qualification or registration;

(8) aiding or abetting the practice of veterinary medicine by a person not licensed by the board;

(9) gross negligence in the performance of duties, tasks or functions assigned to him by a licensed veterinarian;

(10) manifest incapacity or incompetence to perform as a veterinary technician.

Section 3. There is a new R.C.M. section that reads as follows:

Injunction. The board or any person may bring an action in the district court to enjoin any person who is not licensed from engaging in the practice of veterinary medicine or veterinary technology. If the court finds that the defendant is violating, or threatening to violate, any provision of Title 66, chapter 22, R.C.M. 1947, it shall enter an order restraining him from the violation, without regard to any criminal provisions of Title 66, chapter 22, R.C.M. 1947.

Section 4. Section 82A-1602.24, R.C.M. 1947, is amended to read as follows:

"82A-1602.24. Board of veterinarians -- appointment -- qualifications -- term -- removal. (1) There is a board of veterinarians.

(2) The board consists of ~~five (5)~~ six (6) members

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appointed by the governor, five (5) of whom shall be licensed veterinarians and one (1) of whom shall be a public member who is a consumer of veterinary services and who shall not be a licentiate of the board or of any other board under the department of professional and occupational licensing.

(3) The Montana state veterinary medical association shall, at each annual meeting, nominate twice the number of veterinarian board members to be appointed that year. The names of these nominees shall be annually transmitted, under seal, to the governor before July 1. The governor shall, before August 1, appoint from this list the board members to fill the vacancies that will occur July 31. If no nominee has the required qualifications to be on the board, the governor may appoint any licensed and registered veterinarian.

~~(3)~~ (4) Each veterinarian member shall be a reputable licensed veterinarian who has graduated from a college authorized by law to confer degrees, and have educational standards equal to those approved by the American veterinary medical association. Each veterinarian member shall have actually and legally practiced veterinary medicine in either private practice or public service in this state for at least five (5) years immediately before his appointment.

~~(4)~~ (5) Each member shall serve for a term of five (5)

years. The governor may, after notice and hearing, remove a member for misconduct, incapacity, or neglect of duty."

Section 5. Section 66-2202, R.C.M. 1947, is amended to read as follows:

"66-2202. Organization of board--quorum--powers. (1) A board member shall receive a certificate of appointment from the governor.

(2) The board shall annually elect from its members a president, vice-president, and secretary-treasurer, and shall hold at least two (2) regular meetings each year. At a meeting ~~three (3)~~ four (4) members of the board constitute a quorum. If a member of the board, without cause, absents himself from two (2) of its regular meetings consecutively, his office is vacant.

(3) The board may adopt rules and orders necessary for the performance of its duties; prescribe forms for application for examination and license; prepare examinations and the department shall, subject to section 82A-1603, supervise the examination of applicants for license to practice veterinary medicine; obtain the services of professional examination agencies instead of its own preparation of examinations; and grant and revoke licenses.

(4) The department may employ attorneys, subject to the approval of the attorney general, to assist county attorneys in prosecutions brought under this chapter in the respective

district courts of the state or to assist the attorney general in representing the board before the supreme court."

Section 6. Section 66-2207, R.C.M. 1947, is amended to read as follows:

"66-2207. Issuance, registration and reinstatement of licenses. (1) The board shall, at the conclusion of a regular examination or after investigation under the reciprocity arrangements of section 66-2208, if in its judgment the applicant is qualified, authorize the department to issue a license to practice veterinary medicine.

(2) Every license granted shall be issued under seal, and shall be signed by the president and secretary-treasurer of the board, and shall state that the licensee has given satisfactory evidence of fitness as to age, character, veterinary medical education, and other matters required by law, and that after full examination or investigation under reciprocity arrangements he has been found qualified to practice.

(3) A person licensed to practice veterinary medicine in this state shall procure from the department before July 1, annually, his certificate of registration. The certificate shall be issued by the department on the payment of a fee to be fixed annually by the board, not exceeding the sum of ~~ten dollars ($10)~~ twenty-five dollars ($25) and

the presentation of evidence satisfactory to the board that the licensee, in the year preceding the application for renewal, attended an educational program approved by the board. However, the board may authorize the department to issue renewals, but not consecutive renewals, on a showing satisfactory to the board that attendance at the educational programs was unavoidably prevented; and new licensees who secure licenses by examination during the six (6) months preceding July 1 shall be granted renewals without attending the educational programs. The certificate is prima facie evidence of the right of the holder to practice veterinary medicine in this state during the time for which it is issued. Failure of a person licensed to procure a certificate of registration before July 1 annually constitutes a forfeiture of the license held by the person. A person who has thus forfeited his license may have it restored to him by making written application for restoration within one (1) year of the forfeiture setting forth the reasons for failure to procure the certificate of registration at the time specified and accompanied by payment of the registration fee provided for in this section and an additional restoration fee not in excess of ~~ten dollars ($10)~~ twenty-five dollars ($25) as the board requires and by presentation of evidence satisfactory to the board that he has fulfilled the continuing educational

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requirements required of all licensees recited above. The person making application for restoration of license within one (1) year of its forfeiture is not required to submit to examination.

(4) Notwithstanding any other provisions in this chapter, a person licensed who enters, or is called to active duty by, a branch of the armed services of the United States is entitled to receive automatic registration of his license during the period of his duty with the armed services. However, within one (1) year after release or discharge from duty in the armed services he shall procure a certificate of renewal from the department and pay the regular fee. Failure to procure the certificate of renewal within one (1) year after release or discharge is the equivalent of a failure to procure a certificate of registration before July 1 of any year, and the same forfeiture and restoration requirements apply.

(5) A person licensed shall at all times have his residence and office address on file with the department."

Section 7. Section 66-2209, R.C.M. 1947, is amended to read as follows:

"66-2209. Veterinary medicine defined. (1) A person is considered practicing veterinary medicine when he does any of the following:

(a) Represents himself as or is engaged in the practice

of veterinary medicine in any of its branches either directly or indirectly.

(b) Uses words, titles, or letters in this connection or on a display or advertisement or under circumstances so as to induce the belief the person using them is engaged in the practice of veterinary medicine. This use is prima facie evidence of the intention to represent oneself as engaged in the practice of veterinary medicine in any of its branches.

(c) Diagnoses, prescribes, or administers a drug, medicine, appliance, application, or treatment of whatever nature, or performs a surgical operation or manipulation, for the prevention, cure, or relief of a pain, deformity, wound, fracture, bodily injury, physical condition, or disease of animals.

(d) Instructs, demonstrates, or solicits, by a notice, sign, or other indication, with contract either express or implied, or otherwise, with or without the necessary instruments for the administration of biologics or medicines or animal disease cures for the prevention and treatment of disease of animals and remedies for the treatment of internal parasites in animals.

(e) Performs a manual or laboratory procedure for the diagnosis of pregnancy, sterility, or infertility on livestock for remuneration or hire.

(f) Performs acupuncture or ova transfer on animals.

(g) Instructs others for compensation in any manner how to perform any acts which constitute the practice of veterinary medicine.

(2) A person may not practice veterinary medicine or veterinary surgery in this state unless licensed, and registered as required by this chapter; nor may a person practice veterinary medicine or surgery whose authority to practice is suspended or revoked by the board."

Section 8. Section 66-2211, R.C.M. 1947, is amended to read as follows:

"66-2211. Interpretation of statute--persons not embraced within provisions. This chapter does not apply to:

(1) Veterinarians in the performance of their official duties, either civil or military, in the service of the United States, unless they engage in the practice of veterinary medicine in a private capacity.

(2) Laboratory technicians and veterinary research workers, as distinguished from veterinarians, in the employ of this state, or the United States, and engaged in labors in laboratories under the direct supervision of the board of livestock, Montana state university or the United States.

(3) Lawfully qualified veterinarians from other states or a foreign country meeting legally licensed and registered Montana veterinarians in this state in consultation.

(4) A veterinarian residing on a border of a

neighboring state and authorized under the laws thereof to practice veterinary medicine therein, who is actually called to attend cases in this state, but who does not open an office or appoint a place to meet patients or receive calls in this state, if veterinarians licensed and registered in this state are extended a like privilege to engage in the practice of veterinary medicine to the same extent in the neighboring state.

(5) The employment of veterinary medical students who have successfully completed three (3) years of the professional curriculum in veterinary medicine at a college having educational standards equal to those approved by the American veterinary medical association and authorized by law to confer degrees as assistants to veterinarians licensed and registered under this chapter. However, this employment may not be contracted for or entered into except after written application for approval directed to the board and the written grant of approval by the board. This employment may not be for a period in excess of six (6) months from the date of completion of the third year of study.

(6) The operations known and designated as ~~spaying,~~ castrating, or dehorning of cattle, sheep, ~~horses,~~ and swine ~~and related species~~ are not the practice of veterinary medicine within the meaning of this chapter.

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(7) This chapter does not prohibit a person from treating his own farm animals or being assisted in this treatment by his employees regularly employed in the conduct of his business, or by other persons whose services are rendered gratuitously in case of emergency.

(8) This chapter does not prohibit the selling of veterinary remedies and instruments by a registered pharmacist at his regular place of business."

-End-

STATE OF MONTANA

REQUEST NO. 104-75

FISCAL NOTE

Form BD-15

In compliance with a written request received January 28, 19 75, there is hereby submitted a Fiscal Note for Senate Bill 261 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 261 directs the Superintendent of Public Instruction to study and develop an alternative method of financing the public high schools and to allow a cross section of the schools to adopt the method on an experimental basis. The act is repealed on January 4, 1977.

ASSUMPTIONS:

1. Ample historical school district data is readily available for the proposed study.

2. The alternative method decided upon will be simulated rather than actually used on an experimental basis, thus avoiding additional school district costs.

3. Additional .5 FTE professional staff and .5 FTE clerical aide will be required.

FISCAL IMPACT:

Increased expenditures by category	FY 76	FY 77
Personal Services	$ 13,115	$ 6,557
Operating Expenses	4,050	1,750
Total Increase	$ 17,165	$ 8,307

CONCLUSION:

Enactment of Senate Bill 261 will result in an estimated $25,472 increase in expenditure during the biennium.

Michael S. Billings

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: January 31, 1975

PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

44th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
170	Relating to sale and advertising of contraceptive drugs or devices.	1/20	Federico	2/4	DO NOT PASS	2/6
171	Legalize prostitution outside cities; providing for licensing, defineing pandering; providing penalties.	1/20	Federico	1/28	AS AMENDED DO NOT PASS	2/6
239	Control the distribution of sample drugs.	1/23	Conroy Mular	2/11 2/19	(subcommittee) AS AMENDED DO PASS	2/19
248	Require cosmetology schools to teach course in practice of cosme. upon people of all races.	1/23	Travis	2/25	TABLE INDEFINITELY	
256	Allow MT citizens to choose how they want to die; and providing penalties.	1/23	Finley	2/4	DO NOT PASS	2/4/
261	Authorize practice of veterinary tech.; incr. board members; change definition of veter. medicine.	1/23	Moore (Jack) Johnston	2/4	AS AMENDED DO PASS	2/4

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE & SAFETY
HOUSE OF REPRESENTATIVES
February 4, 1975

A meeting of the Public Health, Welfare & Safety Committee was held on Tuesday, February 4, 1975 at 10:30 a.m. in Room 108 of the Capitol Building, with Chairman Menahan presiding. All members were present.

The following bills were heard in this order: HB 256
HB 261
HB 170

HB 256--SPONSOR: Bob Finley, district 19, referred to this bill as the "dignity in death" act. He said this bill would open up the right for a person to decide to die, under certain circumstances. He said that the Catholic church provides for the right of sacrement, and says this is just as sacred. In some religions, they practice passive death by not allowing any sort of blood transfusion. He pointed out provisions that would prevent abuses. Proponent Joyce M. Franks submitted WS I. She gave several reasons for her support: It does not impose the medical staff to help make the decision nor does it cost a fortune or build a bureaucrasy in the state. She could see no societal reason why a dying person can't decide as to how to die, only moral and religious oppression, or even unconcerned habit. She said this bill allows freedom of choice, it protects the doctors, and does not force those people who wish to prolong their life, but at the same time provides for those who wish to shorten it.

Opponent James Provost, MT Catholic Conference, stated that the family group is a complex system, and when one is effected, the whole system is effected. Pressure is being placed on the family when one person decides to die. He defined passive death as letting someone die, and active death as killing someone. He submitted testimony WS II and III, listing the inherent weaknesses of the bill. Marian Wark, Right to Life Assn., said this places a burden on the family in the decision, and said that the ability to reason has nothing to do in the decision since everyone has their lapses, when death looks like the only alternative, (WS IV). Rose Mary Rodger, Helena, said that it was not right to take a life, but God's. Sandy Regnerus, Christian Reformed Churches, opposed this bill because it obscures the difference between ethical medical practice and murder (WS V). Peg Carter, Right to Life Assn., said what is needed more, is qualified persons who can counsel and minister a terminal patient (WS VI).

Under questioning, Ms. Carter said that there was a difference between "pulling the plug" and "injecting a drug" in the process of dying. Father Provost said that it was a simplistic decision, but a very complex one to carry out. Rep. Finley hoped that amendments would not be added to the bill to include those persons in the institutions, but that amendments would include safeguards. He further said that a person should not have a declaration of replication, or a second chance, in the decision to die. Dussault pointed out that this was a philosophical and moral problem, but that this bill only allows those persons involved a right to decide. Father Provost felt that they should not resolve a

a personal problem through legislation, but through adequate education. Herlevi asked if this was permissive rather than mandatory, and Finley replied that this was the whole intent of the bill.

HB 261--SPONSOR: Jack Moore, district 41, said this would update the present practice of veternarian science, and would staff a new position as a vet. technician. He suggested two amendments as per attached stmt. Al Dougherty, MT Veternarian Medical Assn., supported the bill stating that the bill provides injunctive powers of the board, increases its membership, and authorizes and licenses a vet. technician. He introduced Dr. Paul Holcomb, Dr. Jack Ward, Dr. Robert Painter, and Dr. Brad Newcomb, all of who testified in favor of the bill and explaining the purposes of each section. There was no opposition to the bill.

HB 170--SPONSOR: Rob Federico, district 61, stated that Montana can no longer hide under moral standards, but must face the reality of the "act", and to do something about it. He said that by making contraceptives more readily available, it would perhaps control venereal disease. He said this bill would do just that, and also provides for licensing procedures, names who shall dispense, and lists penalties. He submitted WS VII. Proponent Dr. Martin Skinner made three comments on why this was needed: 1) Contraceptives are effective in preventing VD, but that persons have to know what they are and how to use them. 2) The utilization of condoms. He said that 75% of the cases of gonnorhea are 25 years of age and under, some of whom don't even know what it is, or what condoms are. 3) Although condoms are available now, they should be made more readily available.

Rod Gudgel, MT Pharmaceutical Assn., commented that he didn't think that the amendment offered by Federico could be used since it would insert a whole new bill, when the original purpose was to repeal it. But, that after study of the new bill proposed, he may not oppose the act. He pointed out that the their board is referred as the "Board of Pharmacist". Father Provost opposed the idea for two reasons: There is no definition as to who determines who needs contraceptives and who doesn't, and disagreed with the overall information distribution. He said that if you study VD separate from the whole, the family unit is broken. Bev Gluckert, Helena, said that condoms were available now, and that advertising is just a way of pushing a product. She said she did not want her children conditioned to think that these problems were alright. Rose Mary Rodgers said that if they cannot legislate morality, then why can they legislate immorality. She said that this was just a "power of suggestion" and that the state tends to think that they should be permissive.

In closing Federico said that hese persons opposed, refer to "children", when in fact they are not. The only ability we have is to control it. He said that the problem is not in the education but in the act itself, and that figures show this. Mr. Gudgel said that was no real age limitation as to distribution but that it is left the pharmacist's discretion. Finley asked if the deteriotion of the goods would effect the use of the product is subjected to extreme temperature changes, and Dr. Skinner

said he would check into this. Mr. Tippy, legal aid, said that HB 163, the Family Planning bill, it had provisions where no contraceptives may be given to minors without parental consent, and that this should take care of any problems in distributing to minors.

There being no further business, the meeting went into executive hearing.

HB 171--The subcommittee said that they would be ready to report on Thursday.

HJR 10--Mr. Tippy recommended they hold this bill until HB 478 was heard. The committee agreed.

HB 170--RASMUSSEN MOVED HB 170 DO NOT PASS, SECONDED BY GOULD. FINLEY MOVED A SUBSTITUTE MOTION THAT HB 170 DO PASS. MOTION FAILED WITH HOMES, FINLEY, HERLEVI, LESTER AND MACFADDEN IN FAVOR, AND MENAHAN, ANDERSON, BABCOCK, DUSSAULT, GOULD,HARPER, AND RASMUSSEN OPPOSED.

DUSSAULT MOVED TO DEFER ACTION UNTIL THRUSDAY SO THAT THEY COULD STUDY THE NEW BILL AS WRITTEN IN THE AMENDMENTS. MOTION CARRIED.

HB 256--HARPER MOVED HB 256 DO NOT PASS, SECONDED BY GOULD. MOTION CARRIED WITH MENAHAN, ANDERSON, BABCOCK, GOULD, HARPER, LESTER, MACFADDEN AND RASMUSSEN IN FAVOR AND HOLMES, DUSSAULT, FINLEY, AND HERLEVI OPPOSED.

HB 261--RASMUSSEN MOVED THAT HB 261 AS AMENDED DO PASS, SECONDED BY ANDERSON. MOTION CARRIED UNANIMOUSLY.

There being no further business, the meeting was adjourned to reconvene February 6, 1975.

William Menahan
WILLIAM MENAHAN, Chairman

Gloria Wong, Secretary

COMMITTEE ON STATE ADMINISTRATION

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 5	1-24-75	None	3-5-75	Transferred to Judiciary Committee					
HB 29	1-27-75	3-7,14-75	3-14-75					3-14-75	
HB 32	2-10-75	2-14-75	2-14-75					2-14-75	
HB 44	3-4-75	3-10,20-75	3-20-75	WITHOUT RECOMMENDATION					
HB 127	1-30-75	None	3-5-75	Transferred to Finance and Claims Committee					
HB 149	2-7-75	2-26,28-75	2-28-75					2-28-75	
HB 155	2-6-75	3-14,19-75	3-19-75					3-19-75	
HB 165	1-28-75	3-10,20-75	3-20-75					3-20-75	
HB 169	2-1-75	2-28-75	2-28-75				2-28-75		
HB 184	2-1-75	2-28-75 3-17-75	3-17-75					3-17-75	
HB 203	2-7-75	3-7,17-75	3-17-75				3-17-75		
HB 217	2-1-75	2-28-75 3-19-75	3-19-75					3-19-75	
HB 218	2-7-75	None	2-10-75	Transferred to Judiciary Committee					
HB 236	2-26-75	3-11-75	3-15-75	Transferred to Finance and Claims Committee					
HB 261	2-11-75	None	2-17-75	Transferred to Agriculture Committee					
HB 263	3-4-75	3-10,20-75	3-20-75					3-20-75	
HB 266	2-25-75	3-11-75	3-15-75	Transferred to Finance and Claims Committee					

HOUSE LEGISLATIVE SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 33	1-31	3/12	3-12				3-12		
HB 103	2-19	3/10-19	3-19	WITHOUT RECOMMENDATION					
HB 261	2-16	3-5	3-5					3-5	
HB 319	2-28	3/17-19-24	3-24					3-24	
HB 336	2-18	3/12	3-12				3-12		
HB 338	2-19	3/10-12	3-12				3-12		
HB 349	2-27	3/10-12-21	3-21					3-21	
HB 404	2-25	3/17-19	3-19				3-19		
HB 409	2-28	3/19	3-19					3-19	
HB 480	2-21	3/14-19	3-19					3-19	
HB 488	2-28	3/19	3-19						3-19
HB 491	2-28	3/17-24	3-24						3-24
HB 497	2-22	2/28 3/10	3-10				3-10		
HB 498	2-22	2/28 3/10	3-10				3-10		
HB 499	2-22	2/23 3/10	3-10				3-10		
HB 530	2-17	3/7-12	3-12				3-12		
HB 539	2-27	3/19	3-19				3-19		

(Use Separate Sheet for Senate, House Bills, and Resolutions)

SENATE COMMITTEE

ON

AGRICULTURE, LIVESTOCK AND IRRIGATION

Minutes March 5, 1975

The meeting of the Agriculture, Livestock and Irrigation Committee was called to order by Chairman Graham on the above date in Room 415 of the State Capitol Building.

ROLL CALL: All members were present.

The following witnesses were present to testify:

Representative Thomas Conroy - District #58
Norris Nichols - Department of Revenue
Representative Jack Moore - District #41
Al Dougherty - Montana Veterinary Medicine Assoc.
Paul Holcomb - MVMA
Fred Neucomb - MVMA
Bob Painter - Board of Veterinaries
Jack Ward - MVMA
Mons Teigen - Montana Stockgrowers Assoc.
Senator Mark Etchart - District #2

CONSIDERATION OF HOUSE BILL 627:

Representative Conroy said he had introduced at the request of the Department of Revenue. He said this would allow custom combiners to buy permits at the weigh stations without any delay.

Norris Nichols, Department of Revenue, said they have had trouble with custom combiners in that they many times don't know what is required of them to come into the state. If they don't have a bond they are tied up for hours or day until they have a bond. This bill proposes a fee which would entitle them to one unit, which is a combine, truck and pickup. He said the bill uses the words "special harvesting equipment" instead of combines because they don't know what kind of equipment will be used in the future They have to have a fuel permit if they used disel fuel of LPG. The $30 fee is in lieu of the fuel tax.

Representative Conroy said this bill is trying to make it easier for these cutters to come into the state and do the work.

CONSIDERATION OF HOUSE BILL 261:

Representative Jack Moore, District #41, said he was the sponsor of the bill, but would let the veterinaries give the testimony on the bill.

Al Dougherty, representing the Montana Veterinary Medicine Association said this bill is amending the veterinary practices act. He said the bill originated because the need was felt to regulate the use of the veterinary technicians. The bill defines what a veterinary technician is and he said they would be similar to a para medic in human medicine. The veterinary technician must work under the direct supervision of a veterinary, and notice must be given to the client that a veterinary technician is going to be used. He said they had also amended the present law in a few places. He then went through the bill and explained the changes that had been made. He said he had a proposed amendment on page 13, line 2 following the word "ova" insert "or embryo".

Paul Holcomb, DVM, President of the MVMA, said from time to time there has been a need to update the act to better meet the profession.

Fred Newcomb, DVM, MVMA, said there were a number of veterinaries that felt the need for trained technicians. He said the bill had been worked up by the MVMA and had worked with a committee of the American Veterinary Association.

Bob Painter, member of the board of veterinaries, said he saw the need for technicians and felt the vets could work with a person in this position easily. He said this bill would also make vets keep up with education on new techniques.

Jack Ward, DVM, MVMA, went over sections 7 and 8 and the changes that had been made.

Mons Teigen, Montana Stockgrowers Association, said the veterinary technician program is needed in the state and should be supported. He said there were a few parts of the bill that bothered them.

Senator Foster, read a letter from G. Ward Burleigh, Jr., DVM. A copy of this letter is attached.

Senator Mark Etchart, District #3, had some proposed amendments to the bill.

Discussion followed by members of the committee

Senator Murphy moved to amend page 13, line 2 after the word "ova" insert"or embryo". Seconded by Senator Conover. Motion carried unanimously.

Senator Kolstad moved to amend page 6, line 15, after the word "technology" insert "unless otherwise exempted under section 66-2211, subsection (7). Motion carried by a roll call vote of 7 to 4. Senators Boylan, Conover, Jergeson and Murphy voting NO.

Senator Galt moved to amend page 13, line 3, following "others" insert "except those covered under the provisions of Section 66-2211, subsection (7)". Motion carried by a roll call vote of 6 to 5. Senators Boylan, Aber, Conover, Jergeson and Murphy voting NO.

DISPOSITION OF HOUSE BILL 261:

Senator Galt moved that House Bill 261 BE CONCURRED IN AS AMENDED. Motion carried unanimously. Senator Murphy had a written vote.

CONSIDERATION OF HOUSE BILL 627:

Senator Conover moved to amend the fee from thirty dollars to ten dollars. Seconded by Senator Nelson. Motion carried.

Senator Aber moved that House Bill 627 BE CONCURRED IN AS AMENDED. Seconded by Senator Conover. Motion carried unanimously. Senator Murphy had a written vote.

The meeting was then adjourned.

SENATOR CARROLL GRAHAM
CHAIRMAN

G. Ward Burleigh Jr
Heath Rt, Lewistown
Feb 27, 1975

Dan Foster
Senator
Helena, Montana

Dear Dan,

There is a Montana Veterinary Medical Association bill, House bill No 261, comming before your committee on Agriculture, Livestock and Irrigation on Wednesday, March 5, for a public hearing. I have a few thoughts on this bill and I would like to share them with you. As you know I am both a rancher and a veterinarian although most of my livelyhood comes from ranching. Therefore my views are slanted more towards the livestock industry than the veterinary profession.

The main purpose of the bill is to license veterinary technicians and I am very much in favor of this. I also favor

the conditions specified for the Board of Veterinarians and the new licensing requirements.

However I am very much opposed to the idea that acupuncture and ova transfer on animals as a procedure that only veterinarians are privileged to perform line 2 page 13 of House bill 261. Very briefly my reasons are that cattle and other animals are the property of people and these people should have the right to choose the type of service they want It should not be a law that they have to hire only veterinarians to work on livestock when otherwise adequately trained and qualified individuals may be able to perform the same service at less expense and with equally satisfying results. In fact if the technique of ova transplants is advanced to the stage where it may become very useful to the cattle industry in this state, a law restricting the performance of the technique to veterinarians would only guarantee an artificially high cost This would be a disadvantage to the cattle industry.

I am also very much opposed to the

idea of making a law that would forbid anyone but veterinarians from instructing others, for compensation, in any manner, how to perform any acts which constitute the practice of veterinary medicine, lines 3 through 5 page 13.

The object of this provision is to prevent Artifical Insemination schools from teaching the technique of pregnancy testing or other similar situations. I feel that anything that advances the education and technology of those individuals charged with managing the livestock in this state is a definate advantage to the livestock industry. It is a fact that veterinarians are very slow to provide this education because they feel it will have a negative effect on their livelyhood.

Thanks for your consideration Don.

Sincerely yours,

Edward Burleigh Jr

☐ DO PASS
☐ DO NOT PASS
☒ BE CONCURRED IN
☐ BE NOT CONCURRED IN
☐ BE ADOPTED
☐ BE NOT ADOPTED
☐ BE HELD OVER

STANDING COMMITTEE REPORT

March 5 19 75

MR. PRESIDENT

We, your committee on AGRICULTURE, LIVESTOCK AND IRRIGATION

having had under consideration HOUSE Bill No. 261

Respectfully report as follows: That HOUSE Bill No. 261,
be amended as follows:

1. Amend third reading bill, page 6, section 3, line 15.
   Following: "technology"
   Insert: ", unless otherwise exempted under Section 66-2211, subsection (7)"

2. Amend third reading bill, page 13, section 7, line 2.
   Following: "ova"
   Insert: "or embryo"

3. Amend third reading bill, page 13, section 7, line 3.
   Following: "others"
   Insert: "except those covered under the provisions of Section 66-2211, subsection (7)"

AND AS SO AMENDED, BE CONCURRED IN
~~DO PASS~~

GRAHAM Chairman

HOUSE BILL NO. 261

INTRODUCED BY JACK MOORE, JOHNSTON, BERTELSEN, KROPP, LESTER, MURPHY, MANUEL, UNDERDAL, JACOBSEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE PRACTICE OF VETERINARY TECHNOLOGY; TO INCREASE THE NUMBER OF MEMBERS ON THE BOARD OF VETERINARIANS FROM FIVE (5) TO SIX (6) BY AMENDING SECTIONS ~~82A-1602~~ 82A-1602.24 AND 66-2202, R.C.M. 1947; TO PROVIDE FOR CONTINUING EDUCATION AND INCREASE THE LICENSE FEE BY AMENDING SECTION 66-2207, R.C.M. 1947; AND TO CHANGE THE DEFINITION OF VETERINARY MEDICINE BY AMENDING SECTIONS 66-2209 AND 66-2211, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. There is a new R.C.M. section that reads as follows:

Veterinary technicians -- definitions -- examinations. (1) The board of veterinarians may also issue to qualified applicants licenses for the practice of veterinary technology, to be known as veterinary technicians.

(2) As used in this act:

(a) "Veterinary technician" means a person determined by the board to be qualified by education and training to provide limited veterinary services under the direct supervision of a licensed veterinarian who shall be responsible for the performance of that technician; provided, however, that nothing in this act permits the board or any licensed veterinarian to delegate any of the following duties or functions: (i) diagnosis; (ii) prognosis; (iii) prescription; or (iv) surgery.

(b) "Direct supervision" means an order by the supervising licensed veterinarian to the veterinary technician, with notice to the client, to perform a specific function for that client within the veterinarian's routine practice, with a follow-up by the veterinarian to evaluate and determine the quality and effectiveness of the function performed and with all billing for such services to be made by the veterinarian. ~~In--practice--in--the--field,--as distinguished-from--practice--in--an--office,--hospital,--or clinic,-the-veterinary-technician-must-be-accompanied-by-the supervising-veterinarian.~~

(3) Each candidate for examination as a veterinary technician shall file in his full name an application for examination with the board at least thirty (30) days before the date set by the board for the commencement of the examination and at the time of making the application shall pay the board a fee of twenty-five dollars ($25). The applicant shall furnish satisfactory proof that he is of good moral character and has earned a diploma or certificate from a school of veterinary technology offering a course of

REFERENCE BILL

study recognized and approved by the board of veterinarians, as well as such other information as may be required by the board.

(4) The board shall adopt uniform rules within the limitations of this act, governing the matter of examinations for license to practice veterinary technology in the state of Montana, which examinations shall be open to any applicant meeting the requirements of this act, and shall also provide in such rules for giving reasonable notice of the time and place where examinations shall be held.

(5) A person who can produce satisfactory evidence that he has been employed as a veterinary technician in the office of a regularly licensed veterinarian in the state of Montana for two (2) or more years prior to the passage of this act, may, upon payment of a fee of twenty-five dollars ($25), be granted a certificate to practice by the board of veterinarians; provided that if the board in its discretion finds that animal health and the public interest so require, the board may require the applicant to pass a practical examination in veterinary technology. A certificate must be secured before such person may continue practice as a veterinary technician.

(6) Each applicant who passes the examination prescribed by the board shall be granted a license as a

veterinary technician and shall be registered as such in a record kept by the board, and shall receive a certificate in a form to be prescribed by the board.

(7) A licensed veterinary technician may practice in the office of and under the direct supervision of a legally licensed and actively practicing veterinarian or in a department of state government in which a legally licensed veterinarian is present to exercise direct supervision.

(8) Each licensed veterinary technician shall annually, on or before July 1, procure from the board a certificate of annual registration. The fee for annual registration shall be fixed by the board, not exceeding the sum of ten dollars ($10). Failure of a licensee to procure a certificate of registration on or before July 1 shall constitute a forfeiture of the license.

(9) Each licensed veterinary technician shall keep the board informed of his address, the name and address of the licensed veterinarian or of the state department which is his employer, and such other information as the board may by rule require.

Section 2. There is a new R.C.M. section that reads as follows:

Denial, suspension and revocation of licenses or certificates. The board may deny or suspend or revoke any license or certificate of registration upon the grounds that

the applicant or veterinary technician is guilty of:

(1) soliciting patients for any practitioner of the healing arts;

(2) soliciting or receiving any form of compensation from any person other than his registered employer for performing as a veterinary technician;

(3) willfully or negligently divulging a professional confidence or discussing a veterinarian's diagnosis, or treatment, without the express permission of the veterinarian;

(4) any offense punishable by incarceration in a state penitentiary or federal prison. A copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence, provided that at the conclusion of state supervision imposed as a consequence of such conviction the board shall not consider the conviction upon reapplication for a license or certificate;

(5) the habitual or excessive use of intoxicants or drugs;

(6) fraud or misrepresentation in applying for or procuring a certificate of qualification to perform as a veterinary technician, or in applying for or procuring an annual registration;

(7) impersonating another person registered as a

veterinary technician or allowing any person to use his certificate of qualification or registration;

(8) aiding or abetting the practice of veterinary medicine by a person not licensed by the board;

(9) gross negligence in the performance of duties, tasks or functions assigned to him by a licensed veterinarian;

(10) manifest incapacity or incompetence to perform as a veterinary technician.

Section 3. There is a new R.C.M. section that reads as follows:

Injunction. The board or any person may bring an action in the district court to enjoin any person who is not licensed from engaging in the practice of veterinary medicine or veterinary technology, UNLESS OTHERWISE EXEMPTED UNDER SECTION 66-2211, SUBSECTION (7). If the court finds that the defendant is violating, or threatening to violate, any provision of Title 66, chapter 22, R.C.M. 1947, it shall enter an order restraining him from the violation, without regard to any criminal provisions of Title 66, chapter 22, R.C.M. 1947.

Section 4. Section 82A-1602.24, R.C.M. 1947, is amended to read as follows:

"82A-1602.24. Board of veterinarians -- appointment -- qualifications -- term -- removal. (1) There is a board of

veterinarians.

(2) The board consists of ~~five--(5)~~ six (6) members appointed by the governor, five (5) of whom shall be licensed veterinarians and one (1) of whom shall be a public member who is a consumer of veterinary services and who shall not be a licentiate of the board or of any other board under the department of professional and occupational licensing.

(3) The Montana state veterinary medical association shall, at each annual meeting, nominate twice the number of veterinarian board members to be appointed that year. The names of these nominees shall be annually transmitted, under seal, to the governor before July 1. The governor shall, before August 1, appoint from this list the board members to fill the vacancies that will occur July 31. If no nominee has the required qualifications to be on the board, the governor may appoint any licensed and registered veterinarian.

~~(3)~~--(4) Each veterinarian member shall be a reputable licensed veterinarian who has graduated from a college authorized by law to confer degrees, and have educational standards equal to those approved by the American veterinary medical association. Each veterinarian member shall have actually and legally practiced veterinary medicine in either private practice or public service in this state for at

least five (5) years immediately before his appointment.

~~(4)~~--(5) Each member shall serve for a term of five (5) years. The governor may, after notice and hearing, remove a member for misconduct, incapacity, or neglect of duty."

Section 5. Section 66-2202, R.C.M. 1947, is amended to read as follows:

"66-2202. Organization of board -- quorum -- powers. (1) A board member shall receive a certificate of appointment from the governor.

(2) The board shall annually elect from its members a president, vice-president, and secretary-treasurer, and shall hold at least two (2) regular meetings each year. At a meeting ~~three--(3)~~ four (4) members of the board constitute a quorum. If a member of the board, without cause, absents himself from two (2) of its regular meetings consecutively, his office is vacant.

(3) The board may adopt rules and orders necessary for the performance of its duties; prescribe forms for application for examination and license; prepare examinations and the department shall, subject to section 82A-1603, supervise the examination of applicants for license to practice veterinary medicine; obtain the services of professional examination agencies instead of its own preparation of examinations; and grant and revoke licenses.

(4) The department may employ attorneys, subject to

the approval of the attorney general, to assist county attorneys in prosecutions brought under this chapter in the respective district courts of the state or to assist the attorney general in representing the board before the supreme court."

Section 6. Section 66-2207, R.C.M. 1947, is amended to read as follows:

"66-2207. Issuance, registration and reinstatement of licenses. (1) The board shall, at the conclusion of a regular examination or after investigation under the reciprocity arrangements of section 66-2208, if in its judgment the applicant is qualified, authorize the department to issue a license to practice veterinary medicine.

(2) Every license granted shall be issued under seal, and shall be signed by the president and secretary-treasurer of the board, and shall state that the licensee has given satisfactory evidence of fitness as to age, character, veterinary medical education, and other matters required by law, and that after full examination or investigation under reciprocity arrangements he has been found qualified to practice.

(3) A person licensed to practice veterinary medicine in this state shall procure from the department before July 1, annually, his certificate of registration. The

certificate shall be issued by the department on the payment of a fee to be fixed annually by the board, not exceeding the sum of ~~ten dollars ($10)~~ twenty-five dollars ($25) and the presentation of evidence satisfactory to the board that the licensee, in the year preceding the application for renewal, attended an educational program approved by the board. However, the board may authorize the department to issue renewals, but not consecutive renewals, on a showing satisfactory to the board that attendance at the educational programs was unavoidably prevented; and new licensees who secure licenses by examination during the six (6) months preceding July 1 shall be granted renewals without attending the educational programs. The certificate is prima facie evidence of the right of the holder to practice veterinary medicine in this state during the time for which it is issued. Failure of a person licensed to procure a certificate of registration before July 1 annually constitutes a forfeiture of the license held by the person. A person who has thus forfeited his license may have it restored to him by making written application for restoration within one (1) year of the forfeiture setting forth the reasons for failure to procure the certificate of registration at the time specified and accompanied by payment of the registration fee provided for in this section and an additional restoration fee not in excess of ~~ten~~

~~dollars--(610)~~ twenty-five dollars ($25) as the board requires and by presentation of evidence satisfactory to the board that he has fulfilled the continuing educational requirements required of all licensees recited above. The person making application for restoration of license within one (1) year of its forfeiture is not required to submit to examination.

(4) Notwithstanding any other provisions in this chapter, a person licensed who enters, or is called to active duty by, a branch of the armed services of the United States is entitled to receive automatic registration of his license during the period of his duty with the armed services. However, within one (1) year after release or discharge from duty in the armed services he shall procure a certificate of renewal from the department and pay the regular fee. Failure to procure the certificate of renewal within one (1) year after release or discharge is the equivalent of a failure to procure a certificate of registration before July 1 of any year, and the same forfeiture and restoration requirements apply.

(5) A person licensed shall at all times have his residence and office address on file with the department."

Section 7. Section 66-2209, R.C.M. 1947, is amended to read as follows:

"66-2209. Veterinary medicine defined. (1) A person is

considered practicing veterinary medicine when he does of the following:

(a) Represents himself as or is engaged in practice of veterinary medicine in any of its branc either directly or indirectly.

(b) Uses words, titles, or letters in this connect or on a display or advertisement or under circumstances as to induce the belief the person using them is engaged the practice of veterinary medicine. This use is prima fa evidence of the intention to represent oneself as engaged the practice of veterinary medicine in any of its branch

(c) Diagnoses, prescribes, or administers a dr medicine, appliance, application, or treatment of whate nature, or performs a surgical operation or manipulati for the prevention, cure, or relief of a pain, deformi wound, fracture, bodily injury, physical condition, disease of animals.

(d) Instructs, demonstrates, or solicits, by a noti sign, or other indication, with contract either express implied, or otherwise, with or without the necessa instruments for the administration of biologics or medici or animal disease cures for the prevention and treatment disease of animals and remedies for the treatment internal parasites in animals.

(e) Performs a manual or laboratory procedure for t

diagnosis of pregnancy, sterility, or infertility on livestock for remuneration or hire.

(f) Performs acupuncture or ova OR EMBRYO transfer on animals.

(g) Instructs others EXCEPT THOSE COVERED UNDER THE PROVISIONS OF SECTION 66-2211, SUBSECTION (7) for compensation in any manner how to perform any acts which constitute the practice of veterinary medicine.

(2) A person may not practice veterinary medicine or veterinary surgery in this state unless licensed, and registered as required by this chapter; nor may a person practice veterinary medicine or surgery whose authority to practice is suspended or revoked by the board."

Section 8. Section 66-2211, R.C.M. 1947, is amended to read as follows:

"66-2211. Interpretation of statute -- persons not embraced within provisions. This chapter does not apply to:

(1) Veterinarians in the performance of their official duties, either civil or military, in the service of the United States, unless they engage in the practice of veterinary medicine in a private capacity.

(2) Laboratory technicians and veterinary research workers, as distinguished from veterinarians, in the employ of this state, or the United States, and engaged in labors in laboratories under the direct supervision of the board of

livestock, Montana state university or the United States.

(3) Lawfully qualified veterinarians from other states or a foreign country meeting legally licensed and registered Montana veterinarians in this state in consultation.

(4) A veterinarian residing on a border of a neighboring state and authorized under the laws thereof to practice veterinary medicine therein, who is actually called to attend cases in this state, but who does not open an office or appoint a place to meet patients or receive calls in this state, if veterinarians licensed and registered in this state are extended a like privilege to engage in the practice of veterinary medicine to the same extent in the neighboring state.

(5) The employment of veterinary medical students who have successfully completed three (3) years of the professional curriculum in veterinary medicine at a college having educational standards equal to those approved by the American veterinary medical association and authorized by law to confer degrees as assistants to veterinarians licensed and registered under this chapter. However, this employment may not be contracted for or entered into except after written application for approval directed to the board and the written grant of approval by the board. This employment may not be for a period in excess of six (6) months from the date of completion of the third year of

study.

(6) The operations known and designated as ~~spaying,~~ castrating~~,~~ or dehorning of cattle, sheep, ~~horses,~~ HORSES, and swine ~~and--related--species~~ are not the practice of veterinary medicine within the meaning of this chapter.

(7) This chapter does not prohibit a person from treating his own farm animals or being assisted in this treatment by his employees ~~regularly~~ employed in the conduct of his business, or by other persons whose services are rendered gratuitously in case of emergency.

(8) This chapter does not prohibit the selling of veterinary remedies and instruments by a registered pharmacist at his regular place of business."

-End-